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Sixtieth session

SUMMARY RECORD OF THE 1615th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 1 August 1997, at 10 a.m.

Chairman: Mrs. CHANET

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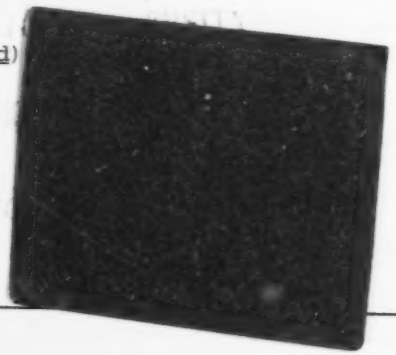

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GE.97-17634 (E)

The meeting was called to order at 10.15 a.m.

ANNUAL REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY THROUGH THE ECONOMIC AND SOCIAL COUNCIL UNDER ARTICLE 45 OF THE COVENANT AND ARTICLE 6 OF THE OPTIONAL PROTOCOL (agenda item 9) (continued) (CCPR/C/60/CRP.1 and Corr.1; CCPR/C/60/CRP.1/Add.1, 3 and 4; CCPR/C/60/CRP.2 and Add.1 and 3)

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Paragraphs 32-72

1. Mrs. EVATT (Rapporteur) proposed that the report of the Informal Meeting (para. 32) should be made available as a separate document. Secondly, she proposed that subsection A (paras. 32-72) should be replaced by a new subsection A entitled "Recent decisions on procedures". That subsection would include the existing paragraph 32 with the addition of seven new paragraphs, which had been circulated to members of the Committee in an unnumbered document. Paragraph 67 would be retained and paragraphs 68-72 deleted.

2. Mr. YALDEN, referring to paragraph 52, said he hoped that if the working group of the kind suggested by Mr. Buergenthal the previous day was established, it would deal with publicity and press releases and would also consider improvements in the format of the annual report.

3. Mr. POCAR said he would prefer paragraphs 57-59 to be retained, although he would not press the point if it was intended to discuss the question of reservations again in October in the light of the findings of the preliminary report of the International Law Commission.

4. Paragraphs 32-72, as amended, were adopted.

Paragraphs 73a, 73b, 74, 75 and 76

5. Paragraphs 73a, 73b, 74, 75 and 76 were adopted.

Paragraph 77

6. The CHAIRMAN observed that the figure for the number of reports received would be inserted at a later stage.

7. On that understanding, paragraph 77 was adopted.

Paragraph 78

8. Mrs. EVATT (Rapporteur) proposed that the existing section IV should be replaced by a more general section entitled "Follow-up to reporting obligations under article 40 of the Covenant". Subsection A would be entitled "States that have not complied with their obligations under article 40" and would include the existing paragraphs 79 and 80, followed by the table giving details of States parties whose reports were overdue. Following the table would come a new subsection B, entitled "Follow-up to concluding observations". The material relating to the comments of States parties on the

Committee's concluding observations would appear under that heading. The existing paragraph 78 would be deleted, and paragraphs relating to information received from Colombia and Georgia added.

9. The CHAIRMAN said she wondered whether some confusion might arise between the comments made by States parties in response to the Committee's concluding observations, as in the case of Colombia and Georgia, and the Committee's follow-up procedure. The reaction of those two States parties could not really be described as follow-up. In view of the fact that the Committee had not yet taken any general decision concerning the follow-up process, she would suggest that the heading of section B as well as paragraph 78 should be retained, with the addition of the material relating to Colombia and Georgia.

10. Mr. LALLAH said it was unfortunate that there had not been time to discuss how such responses from States parties should be dealt with: one possibility would be to study them at the time subsequent reports were being considered. Since the matter had not been discussed, he proposed that it should be deferred until the next session, in which case there would be no need for any subsection B. The next annual report would then reflect the decision taken.

11. Mr. ANDO supported that proposal. As he recalled, Sri Lanka and Senegal had also made responses to the Committee's observations, and receipt of those responses had been noted. More time would be needed for discussion if it was intended to adopt a new procedure in that regard.

12. Mrs. EVATT (Rapporteur) agreed that that approach would be preferable. The paragraphs relating to Colombia and Georgia would then replace paragraph 78 in the existing text. A new paragraph concerning States parties which had not complied with their obligations to submit reports would follow.

13. Mr. POCAR asked whether it was intended that the letter received from Georgia would be referred to the Working Group, as well as the information from Colombia.

14. Mrs. EVATT (Rapporteur) said that in fact the letter from Georgia had already been studied by the Working Group, whereas the information from Colombia had only just been received.

15. Lord COLVILLE suggested that it would be better if the Working Group considered both documents.

16. Paragraph 78, as amended, was adopted.

Paragraph 79

17. Paragraph 79 was adopted.

Paragraph 80

18. Lord COLVILLE proposed that the sentence within square brackets should be retained.

19. Paragraph 80, as amended, was adopted.

Document CCPR/C/60/CRP.1 as a whole, as amended, was adopted.

Document CCPR/C/60/CRP.1/Add.1

20. Mrs. EVATT (Rapporteur) proposed that a new paragraph should be inserted after paragraph 136 of the document, to read: "Following the adoption of the above concluding observations, the Government of Germany submitted to the Committee the 'Survey of the Policy and Law concerning Foreigners in the Federal Republic of Germany', which had been requested by members".

21. She also proposed the addition of a new Section VI to be entitled "General Comments of the Committee" and to consist of two paragraphs which would read:

> "1. At its sixtieth session (July 1997), Mr. Klein presented to the Committee a working document summarizing in detail the work of the Committee in relation to article 12 of the Covenant; the document included information about the Committee's views under article 40 and its case law under article 40. The Committee considered the document to provide a valuable basis for the drafting of a general comment on article 12.
>
> "2. The Committee considered a letter dated 25 June 1997 from Mr. Joinet, Chairperson/Rapporteur of the Sub-Commission Working Group on the Administration of Justice, to the Chairperson, requesting the Committee to consider preparing an amendment of its General Comment on article 4. The Committee decided ...".

22. The paragraph referring to Mr. Joinet's letter should be redrafted because it had not yet been considered by the Committee. The word "considered" should be replaced by "received" and the second sentence should read: "The Committee decided to forward it to the pre-sessional Working Group".

23. The CHAIRMAN said she would take it that the Committee wished to adopt document CCPR/C/60/CRP.1/Add.1 with the new paragraph and new section proposed by the Rapporteur.

24. It was so decided.

25. Document CCPR/C/60/CRP.1/Add.1, as amended, was adopted.

Document CCPR/C/60/CRP.1/Add.3

Paragraph 1

26. Mr. POCAR said that the eighth line should read: "that have ratified, acceded or succeeded to the Covenant", and in the last line the reference to Turkmenistan should be amended if it had become independent after ratification of the Optional Protocol by the Union of Soviet Socialist Republics, in which case it would be a succession and not an accession.

27. Mrs. EVATT (Rapporteur) suggested that it might be simpler to say that four States had "become parties to" the Optional Protocol.

28. The CHAIRMAN said that in any event the information was included in paragraph 1 of document CCPR/C/60/CRP.1; the entire last sentence of the paragraph under consideration should therefore be deleted.

29. It was so decided.

30. Paragraph 1, as amended, was adopted.

Paragraphs 2-4

31. Paragraphs 2-4 were adopted.

Paragraph 5

32. Mr. ANDO drew attention to the omission of the word "of" at the end of the first line.

33. Mr. BUERGENTHAL asked whether the "hundreds" of communications on file included those which had not been translated and therefore not registered.

34. Mrs. EVATT (Rapporteur) said that since the authors had been advised that further information would be needed before their communications could be registered for consideration by the Committee, the assumption was that someone had read them and had decided that they could not yet be registered.

35. Mr. BUERGENTHAL asked whether the Committee was making any statement regarding the number of communications on file that were awaiting translation.

36. The CHAIRMAN suggested that the Rapporteur might find a way of reflecting the situation regarding the translation of communications in paragraph 12 or 13.

37. It was so agreed.

38. Paragraph 5, as amended, was adopted.

Paragraph 6

39. Lord COLVILLE queried the first name of Mr. Canepa (case No. 558/1993). It was given in the document as "Giosue", and he wondered whether it had not been "Giuseppe".

40. The CHAIRMAN said that the secretariat would check and amend the paragraph if necessary.

41. Paragraph 6 was adopted.

Paragraph 7

42. Paragraph 7 was adopted.

Paragraph 8

43. Mr. SCHEININ proposed the insertion of the words "by the Committee" at the end of the second sentence; decisions declaring communications admissible could always be made public by the State party.

44. Paragraph 8, as amended, was adopted.

Paragraph 9

45. Paragraph 9 was adopted.

Paragraphs 10-13

46. Mr. BHAGWATI asked whether the square brackets in the first sentence of paragraph 12 should be deleted.

47. The CHAIRMAN said that since they were of purely internal relevance to the Committee they should be.

48. It was so agreed.

49. Mr. KLEIN proposed that there should be some reference in paragraph 13 to article 36 of the Covenant, which stated that the Secretary-General of the United Nations should provide the necessary staff and facilities for the effective performance of the functions of the Committee.

50. The CHAIRMAN pointed out that article 36 did not refer only to the Committee's consideration of communications.

51. Mrs. EVATT (Rapporteur) proposed rewording part of the paragraph to read: "nevertheless emphasizes that in accordance with article 36 it should be guaranteed the necessary resources for the effective performance of all its functions, including communications, and".

52. It was so decided.

53. Paragraphs 10-13, as amended, were adopted.

Paragraph 14

54. Mrs. EVATT (Rapporteur) proposed that paragraph 14 should be deleted, as it was regarded by some members as simply a historical note.

55. It was so decided.

Paragraphs 15-17

56. Paragraphs 15-17 were adopted.

Paragraphs 18 and 19

57. Mrs. EVATT (Rapporteur) responding to an observation by Lord COLVILLE, proposed that paragraph 18 should be deleted and paragraph 19 redrafted to reflect the fact that, under the Committee's new rules of procedure, the Committee itself could decide whether or not information on admissibility and information on merits could be considered together.

58. It was so decided.

Paragraphs 20-52

59. Paragraphs 20-52 were adopted.

Paragraph 53

60. Mr. KRETZMER said he had some difficulty with the wording of the second sentence, since the offence described under the "Gayssot Act" related, as he recalled, specifically to the crimes against humanity judged at the International Military Tribunal at Nürnberg.

61. Following a brief discussion in which Mrs. EVATT (Rapporteur), Lord COLVILLE and Mr. KRETZMER took part, the CHAIRMAN proposed that the sentence should be amended accordingly.

62. On that understanding, paragraph 53 was adopted.

Paragraph 54

63. The CHAIRMAN proposed that the heading should be amended to read:

"(h) The rights of persons belonging to minorities (Covenant, art. 27)"

64. Paragraph 54, as amended, was adopted.

Paragraph 55

65. Paragraph 55 was adopted, subject to an editorial amendment.

66. Document CCPR/C/60/CRP.1/Add.3, as amended, was adopted.

Document CCPR/C/60/CRP.1/Add.4

67. Lord COLVILLE, referring to paragraph 2, proposed that only the last sentence should be retained. He also proposed that paragraph 25 should be amended in order to state whether further follow-up consultations had been established or not.

68. It was so agreed.

69. Mrs. EVATT (Rapporteur), referring to paragraph 4, recalled that the Committee was to take up, in the near future, the matter of defining terms

such as "satisfactory" and "unsatisfactory". With reference to the country-by-country breakdown in paragraph 7, she said that, in the case of Australia, it could now be recorded that the legislation in question had been repealed. With reference to the summary of follow-up replies shown from paragraph 11 onwards, two additional texts were to be inserted in the paragraphs relating to Jamaica and the Republic of Korea respectively, which currently contained square brackets; the texts were available for consultation by Committee members.

70. Mr. POCAR, referring to the last sentence of paragraph 9, said that the words "The Special Rapporteur regrets that he was unable" should be replaced by "The Committee regrets that the Special Rapporteur was unable". Likewise, paragraph 37 should be amended to read "The Committee urges these States parties to reply to the Special Rapporteur's request for follow-up information within the imparted deadlines".

71. It was so decided.

72. Mrs. EVATT (Rapporteur), responding to an observation by Lord COLVILLE, said that paragraph 19 could be deleted.

73. It was so decided.

74. Mr. BUERGENTHAL said it would be helpful if all footnotes cited the relevant case numbers, as in footnote 10, for example.

75. Mr. SCHMIDT (Centre for Human Rights), referring to paragraph 22, said that, because of further information received, the last sentence could be deleted and replaced by "The States parties' reply dated 30 July 1997 and relating only to case No. 193/1985 provides no relevant follow-up information; further information is, however, promised as soon as it becomes available from the State party's authorities".

76. Mrs. EVATT (Rapporteur) thanked Mr. Schmidt and the secretariat staff for having brought up to date, at extremely short notice, that section of the report dealing with follow-up replies.

Document CCPR/C/60/CRP.2 (Annex I. States parties; Annex II. Membership and officers)

Document CCPR/C/60/CRP.2/Add.1 (Annex III. Submission of reports and additional information by States parties under article 40 of the Covenant during the period under review; Annex IV. Status of reports considered during the period under review and of reports still pending before the Committee)
Document CCPR/C/60/CRP.2/Add.3 (Annex V. List of documents issued during the reporting period)

77. The CHAIRMAN invited the Committee to consider annexes I to V simultaneously.

78. In reply to questions by Mr. Ando and Mr. Buergenthal she said that the status of submission of reports and additional information (annex III), as

well as the lists in annex I, would be updated before the Committee's report was submitted to the Economic and Social Council.

79. In reply to a question by Mr. Pocar and Mr. Scheinin, Mrs. EVATT (Rapporteur) said that the footnotes 1/ and 2/ in the list of States parties to the Covenant (annex I) corresponded to the footnotes a/ and b/ in the same annex to the previous year's report. The ambiguity of the footnote for Turkmenistan would be resolved.

80. After a discussion in which Mr. POCAR, Mrs. EVATT (Rapporteur), Mr. LALLAH, Mr. ANDO, Mr. KLEIN, Mr. BHAGWATI, Mr. PRADO VALLEJO and Mrs. GAITAN DE POMBO took part, the CHAIRMAN asked whether the Committee could agree that the case of Hong Kong would be covered by the insertion, alongside the entry for the United Kingdom in the list of States parties (annex I), of an asterisk referring readers to the account of the Committee's discussion in relation to Hong Kong in chapter V of the report.

81. It was so agreed.

82. Mrs. MEDINA QUIROGA, referring to the chronological entries for The former Yugoslav Republic of Macedonia and for Bosnia and Herzegovina in annexes I and III, asked whether it was necessary for a successor State to deposit an instrument of succession, especially one which appeared to post-date entry into force by a year or more.

83. Mr. TÜRK said that the entries for "Yugoslavia" in annex I also left him somewhat confused, especially as the named country appeared as a State holding continuity. Some explanation was called for.

84. Mr. ANDO remarked that several successor States of the former Soviet Union had deposited instruments of accession; three had given no indication of their intentions. Perhaps, in such cases and to avoid misunderstandings, the situation should be made more explicit.

85. Mr. POCAR said he believed that the Committee's practice in the past had been to calculate the date of submission of initial reports of States succeeding to States parties from the date when they came into legal existence. On the other hand, when a successor State acceded to the Covenant, it was considered to have been bound as from the date of independence, but its reporting obligations were calculated from the date of accession.

86. Mr. KLEIN suggested that the matters raised by Mrs. Medina Quiroga and more particularly Mr. Türk were too complex and delicate to address at such a late stage in the session; they might, however, usefully be taken up at some future date.

87. The CHAIRMAN said that although the Committee had already discussed those matters in the past, a more detailed examination at an appropriate time might well be called for.

88. Mr. POCAR suggested that for the moment, a footnote might be inserted alongside the entry for "Yugoslavia", referring readers to the Committee's

consideration, in 1992, of the report of the Federal Republic of Yugoslavia (Serbia and Montenegro), which it had considered at that time as a successor State to the former Yugoslavia.

89. Mr. TÜRK concurred with the remarks and suggestions by the previous speakers.

90. The CHAIRMAN said that she took it that the Committee agreed to Mr. Pocar's suggestion.

91. It was so decided.

92. The annexes to the draft annual report of the Human Rights Committee, as amended, were adopted.

93. The draft annual report of the Human Rights Committee, as a whole, as amended, was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

94. The CHAIRMAN announced the names of members of the Committee who would be entrusted with the preparation of proposals for submission to the Working Group on article 40 at the sixty-first session: Mr. Pocar, Mr. Buergenthal, Mr. Scheinin, Mr. Klein and herself. She expressed the hope that the Working Group, which was currently composed of three members, might be enlarged by new volunteers.

95. Mr. KRETZMER sought and received the Chairman's assurance that recent amendments to the rules of procedure, the final versions of which in all the official languages of the Committee had been delayed, had come into full effect with the adoption of the annual report.

CLOSURE OF THE SESSION

96. The CHAIRMAN noted that in the course of the session the Committee had reached 11 decisions of admissibility, 8 decisions of inadmissibility, 11 decisions on merits, 4 decisions of inadmissibility on the basis of recommendations by the Special Rapporteur and 2 decisions based on rule 91 of the rules of procedure. Those figures were one measure of what she considered to have been a productive session, and she expressed her thanks to all who had contributed to its success.

97. Mr. PRADO VALLEJO said that much of the credit was due to the Chairman herself, whose dynamic guidance had been an example to all the members of the Committee.

98. The CHAIRMAN declared the session closed.

The meeting rose at 12.25 p.m.